IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

Writ Petition No. 2218/2003.

PETITIONER : Subhash Ganjeer S/o Shri Itwari Lal Ganjeer, aged 36 years, Assistant Teacher, Government Primary School, Hatguda (Education Department), Tah. Jagdalpur, Distt. Bastar (C.G.).

Versus

RESPONDENTS : 1. State of Chhattisgarh Through : Secretary, Schedule Tribe and Schedule Caste Development Department, D.K.S. Bhawan, Raipur (C.G.).

2. Commissioner, Schedule Tribe and Schedule Caste Development, Chhattisgarh, Raipur (C.G.).

3. Director, Schedule Tribe and Schedule Caste Development, Chhattisgarh, Raipur (C.G.).

4. Assistant Commissioner, Tribal Development, Distt. Bastar (C.G.).

5. Assistant Commissioner, Tribal Development, Distt. Dantewada (CG).

6. Distt. Education Officer, Distt. Bastar at Jagdalpur (C.G.).

7. Secretary, Education Department, Chhattisgarh, Raipur (C.G.).

8. Director, Public Education (Lok Shikshan) Chhattisgarh, Raipur (C.G.)

P. R. No. 2084/03
Presented by Shri Subhash Ganjeer
dated 3/10/03

RECEIVED COPY.
3/10/03
CLERK TO A.G. BILASPUR

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUING APPROPRIATE WRITS OR DIRECTION LOOKING TO THE FACTS AND CIRCUMSTANCES OF THE CASE :

XI-HC-22

AFR

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक W.P. 2218 **सन्** 2003

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

20.09.2006

Shri Subhash Yadav, Counsel for the petitioner.

Shri Sandeep Yadav, Dy. Govt. Advocate for the State.

Arguments heard.

Order dictated as follows :

ORAL ORDER
(20.09.2006)

By way of this Writ Petition, the petitioner has challenged the validity of his transfer order dated 30/06/2003 (Annexure P-2), whereby, the petitioner, who was working on deputation as Assistant Teacher in Tribal Department, Jagdalpur District has been transferred from the said District to the establishment of the Assistant Commissioner, Dantewada District on administrative grounds.

Learned counsel for the petitioner raises two 2 points.

His first submission is that since the petitioner is an employee of the Education Department, he cannot be transferred by an authority of the Tribal Welfare Department, as in the present case, the transfer order has been issued by the authority of the Tribal Welfare Department. His second submission is that the seniority of the Assistant Teachers are maintained District wise and if the order of transfer, which is an inter-District transfer, is giving effect to, his seniority will be effected and it shall prejudice the interest of the petitioner

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(61)

आदेश पत्रक

मामला क्रमांक W.P. 2218 **सन्** 2003

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 2 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Return on behalf of the State has been filed. They have opposed the grounds raised by the petitioner.

It is an admitted fact in this case that the parent department of the petitioner is the Education Department and by an order dated 31/3/2000 (Annexure P-1), the service of the petitioner was handed over to the Tribal Welfare Department on deputation and thereafter, the order of transfer was passed on 30/06/2003. In the said facts and circumstances, when the petitioner was under the administrative control of the Tribal Welfare Department, the authorities of the Tribal Welfare Department were empowered to transfer the petitioner from one place to another in the same department on administrative exigency before them and in this manner, the first point raised by the learned counsel for the petitioner that the petitioner being an employee of the Education Department cannot be transferred by an authority of the Tribal Welfare Department cannot be sustained.

So far as the second ground regarding maintaining of seniority is concerned, it is not disputed that the original seniority of the petitioner is to be maintained by his parent department i.e the Education Department and the seniority of an employee, who is sent on deputation is not maintained by the department or by the establishment, to which, he has been sent on deputation. In fact, his seniority is always maintained in the parent department and the employee occupies the same position in the seniority when he is repatriated in his parent department after completion of the period of deputation, unless in the meanwhile he has earned

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

62

आदेश पत्रक

मामला क्रमांक W.P. 2218 **सन्** 2003

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

promotion in his parent department as per the recruitment rules (**Please see State of Punjab and others Vs. Inder Singh and others (1997) 8 S.C.C. 372).**

In this view of the matter, the second ground raised by the petitioner that his seniority would be affected in case of an inter-District transfer by the borrower department can also not be sustained.

The law in relation to interference in the matter of transfer is well settled. Transfer which is an incidence of service is not to be interfered with by the Courts unless it is shown to be clearly arbitrary or vitiated by malafide or infraction of any prescribed norms of principle governing the transfer (***Please see Ambani Kanta Ray Vs. State of Orissa, 1995 (Suppl) 4 SCC 169***). Who should be transferred and posted where is a matter for the administrative authority to decide. Unless the order of transfer is vitiated by malafide or is made in violation of operative guidelines or rules the Courts should not ordinarily interfere with it. (***Please see Union of India Vs. S.L. Abbas, AIR 1993 SC 2444).***

In view of what has been stated above, this petition has no merit and the same is dismissed.

Consequently, the interim order of stay granted on 25/8/2003 stands vacated.

There shall be no order as to cost.

Sd/-
Sunil Kumar Sinha
Judge

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(पीछे देखिये)